

Before the
Federal Communication Commission
Washington, DC 20554
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In the matter of)
Creation of A Low Power) MM Docket No. 99-25
Radio Service) FCC 05-74

Comments of
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Opening Summary

With this Second Order of Consideration and Further Notice of Rulemaking, the FCC can either shape the Low Power FM as a true service to local communities or fail to make an impact on local populations, which is what has happened with many Low Power TV stations. When LPTV was created, it was under the promise to serve local communities by providing programming that full power TV stations could not provide. Instead of fulfilling the needs of the local community with local programming, LPTV has become in many, if not most instances repeater stations for networks of some distant religious organization. While there is a demand for religious programming by parts of the TV audience, the main idea of LPTV was to carry local programming including news, local sports and other local events. Only in a few cases as LPTV provided that service in my part of the country. I fear that the same could happen to LPFM, if the FCC does not maintain many of its rules concerning local ownership and programming.

Since Congress passed the Telecommunications Act of 1996, which greatly deregulated the ownership rules and earlier actions by the FCC Such as the relaxing of the rules requiring studios to be located in city of license, many stations no longer serve their licensed communities. Other stations are so programmed by corporate headquarters in such a cookie cutter fashion that they no longer reflect the make-up of the community. And news and local sports is no longer carried on many stations due to expense or low income potential. Low-power FM can help provide some of these disappearing services. But this can only happen if the FCC creates rules that allow those truly interested in providing such services.

So far it looks to me, that LPFM is following the same path as LPTV. The service is mainly providing religious programming in many localities. When the first couple of groups of applications were announced, I counted the number of various groups that applied and found that over 50 percent of the LPFM applications were from religious groups. I was disappointed not to see more applications from school systems, local government, colleges and civic groups. While there may be a need for a local church to expend its ministry with a radio station, these stations will not air the local high school game or the city council meeting.

Ownership and Eligibility

The Commission discussed two issues concerning Ownership and Eligibility. The first was the transfer of ownership. There were three issues brought up with one being change of control of a board or other leadership of an organization holding a LPFM license. The Commission should allow for a group to change more than 50% of its board or other managing leadership. Changes do suddenly occur due to problems brought on by mismanagement, low participation within a group or with government ownership, sudden changes due to voter actions. Also, a government may wish to move the operation of a station from one agency to another with a completely different board. A LPFM station could move from control of a library board to a cable access board or a school district or college could merge with another. As communities change, a church may need to merge with another church. Some latitude in transfers needs to be allowed for these types of mergers as long as the original group is part of the merged entity.

As far as sales of LPFM stations to an unrelated second party, the Commission should proceed with caution. First, I believe that there has to be some sort of anti-trafficking policy. Stations should be required to hold stations for a period of time and all sales should be non-profit in nature. Currently, I am seeing non-commercial stations being sold for large amounts of money due to the lack of spectrum for new stations. Some NCE stations are going at values I would expect for a commercial station. I do not believe that a NCE station should be sold for more than it would cost to license and build a new station and recover other costs.

If the Commission should allow for the sale of LPFM stations, any new owner should have to meet the local ownership and programming

requirements. Another restriction the FCC could do is limit the number of sales within a license period. This would allow for more stability in programming.

The other issue concerning Ownership and Eligibility is limiting the number of stations owned and should that ownership be local. I agree with the Commissions original rules that would allow for limited ownership of multiple LPFM stations. There are many good reasons for a group to operate a number of stations in neighboring communities including ease of organization. The Commission set a limit of five after two years and ten after three years. Those numbers or some other numbers in that range seem to be realistic, but they should not be much greater than the range of numbers in the original rules. The length of time before allowing multiple ownership may take effect may need to be extended. LPFM is just taking hold and people should get a chance to find out what LPFM is before allowing multiple ownership. Maybe the FCC should hold a second round of applications for lone LPFM stations before allowing ownership of multiple LPFM stations. This would give a greater number of groups a chance to apply for a LPFM station.

One thing about multiple ownership that I believe needs to be changed is allowing it to be national. Multiple ownership should be regional. I think it local needs would be better meant if ownership of LPFM stations were nearby. It would be better for a LPFM group to own stations in a nearby towns or counties that would be similar in make-up to the stations already owned. Limit ownership to a fixed area such as a 100 or 200-mile radius or over two or three adjacent states.

One issue concerning ownership is what appears to be the use of front organizations. I noticed a number of groups of applications in the first application rounds were there were numerous applicants with a name of some church group followed by the proposed city of license. With many FM translator owners and applicants holding similar names, it would appear that these groups could be pushing the limits of the rules to further extend their reach. Other applications have caught my eye because of the involvement of persons associated with other broadcast organizations also being involved in new LPFM applications. I was greatly interested in the recent ruling announced on August 4th concerning the applications with number of churches belonging to the Calvary Chapel organization. That action ruled that the applicants were local churches associated with the

Calvary Chapel parent Church, but the stations would be operated by the local churches and not under direct control of the Calvary Chapel headquarters. With Calvary Chapels extensive network of translators, I believe the Commission was correct in investigating their involvement in the local churches applications. I think the ruling clarified the line that determines local control of entities that belong to a larger organization with broadcast interests, whether they are full power or low power stations.

The Commission needs to create rules and take other steps to prevent the possibility of LPFM of becoming more satellite feed translators. I would not want a repeat of what has happened with LPTV.

One eligibility issue that I would like to see changed is the limiting of applicants to LPFM stations to organizations that have existed for two or more years. This rule for the most part has limited most of the applicants to churches, governments and educational bodies. Most other service groups in a community are charitable groups of business leaders that have little time to organize and run a radio station. I would like the Commission to extend the eligibility to apply for a LPFM station to groups organized to operate a LPFM station as long as they are incorporated or chartered by their state government for that reason. This would allow a group formed to provide a certain type of musical programs such as classical, jazz or folk music or discussion not hear on commercial radio. Such programming could be similar to public radio only more local and community based. Much public radio is statewide based networks and not local in nature and a LPFM could fill those needs.

Technical Rules

The first technical issue is the length of the construction period. The period to construct a LPFM station should be for three years instead of the eighteen months of the original rules. The Commission stated that a LPFM station was relativity similar than a full power station and should take less time to construct. Many station full power stations particularly those built on limited budgets were no more complex then most LPFM stations. And given today's climate, getting the zoning for a hundred foot tower is no less difficult than a three hundred foot tower or a thousand foot tower. Towers are not popular with many people particularly near their homes and many stations will be located at churches and other communality centers that are in or border residential areas.

Interference protection is the second technical issue is interference protection, which breaks down to basically two issues. The first is the relationship between LPFM stations and translators and the second interference issue is the relationship between LPFM stations and full power stations.

First, I believe that the current rules for FM translators are seriously broken. When the Commission originally changed the rules to allow for translators of stations in the reserved non-commercial band to be feed by means other than off-the-air such as microwave and satellite, I believe the intent was for state-run public broadcast networks and other non-commercial stations to reach nearby underserved area's that they could not reach with an off-air signal because of terrain or in the case of state networks area's unserved by their full power transmitters. I do not believe the intent was to build nationwide FM networks with translators.

In comments I made on the Localism Inquiry, I said that I believed that FM translators should be limited to within the area that a government entity serves such as the state for a state network and or the district that a school system may serve. In the case of community and religious non-commercial stations, translators for these stations that are feed by means other than off the air should be limited to a fixed radius from the station's transmitter or city of license. By limiting translators for stations on the non-reserved band to off-air reception, they are already limited and not major part of the translator abuse issue.

Because of these opinions concerning the use of translators, I would like the Commission to at the minimum, make any translator secondary to a LPFM station other than any FM translator belonging to a state network or school district that provides coverage within it's political boundaries or a translator that is within a specific radius of the station or is feed off-the-air. I do not believe that a translator rebroadcasting a station several states away needs to be or should protected from a proposed LPFM station. Its service should always be secondary to local service. I would like to see the Commission go one step further and change the rules to limit the use of satellite feed translators and possibly not renew their licenses when the licenses expire. From the discussion in the notice, I would say that I am in agreement with Prometheus on the issue of satellite feed translators.

Another issue in the relationship of LPFM stations and translators is the use of fixed mileage separations for the processing of applications. This is the simplest method of determining if a station will work at a location. By using the fixed mileage separation method, the cost of application preparation costs should also be reduced as well as simplified. The Commission is correct to keep the use of mileage separations for the reasons it stated in the notice, that it is similar and reduces application errors and application processing time.

The other interference issue is the relationship of LPFM to full power FM stations. In the notice, the Commission is asking if LPFM stations on the proposed full power stations second or third adjacent channel be allowed to remain on the air with the new station accepting the interference. This issue begs a larger issue. That issue is should the mileage separation and allotment rules be updated concerning second and third adjacent operation by full power, low power and translators on the FM band. These rules were written when the FCC started to use the current allotment table in the early 1960's. At that time, receivers were mostly tubes and used tuned coils to determine adjacent channel rejection, which was subject to changes in tuning do to heat and age. Solid station filters and digital processing are now available for receiver designers, which could allow for tighter spacing and more efficient use of the band. But because of the current rules, receiver manufacturers have continued to build poor quality radios in order to save a few cents in many cases. Automobile radios would meet the task of reduced second and third channel spacing, as would many of the better home stereo systems. Most table and portable radios, boomboxes, and compact stereos do not meet the reception requirements of today's crowded band. Table and other inexpensive radios may need to be miles from the transmitter to receive second or third adjacent station.

My personal experience has shown that a car radio will receive a second adjacent station until the car is in the blanking signal area under the transmission tower. I have been unable to receive second and third adjacent station with some inexpensive radios when I was several miles from a transmitter. That distance varies with the relative power of the two stations.

The Commission cannot require receivers to meet certain reception capabilities, but could the Commission issue a notice that after a certain date the allotment table will reflect separation requirements based on receivers with interference and channel rejection of a certain level. If the Commission

would set a period of several years before the date the new separation standards go into effect, maybe manufacturers would start to upgrade the designs of their less expensive radios.

I do not believe that LPFM stations should operate on the second adjacent channel of an existing station at this time and probably not on the third channel. I do not believe there is enough data to support the reduction of the separation requirements. The tests that have been done to see how different receivers react to second and third channel interference have not included a large enough sample. The tests that have been done by different groups have only to my knowledge used 10 to 30 receivers. I believe a sample of at least 100 to 200 receivers is needed. There should be 10 to 30 of each type of receiver tested. I have had portable radios and boomboxes that could receive large number of stations and some that could receive local stations only. Also, table and clock radios are in a state of flux right now. There are clock and table radios that are good for local stations only and there is now a class of more expensive clock and table radios that are marketed as high-end units. These variations need to be accounted for.

The reduction of second and third adjacent channel protection to new full power FM stations should also be considered very carefully. While an applicant for new station would know that interference could exist from an LPFM on the second or third adjacent channel, would the interference be acceptable to the public, the broadcasters or the Commission based on our past expectations of acceptable interference.

LPFM was created as a secondary service and the Commission should go carefully in giving LPFM any primary status. The only primary status the Commission should give to LPFM stations is to translators other than those within the political boundaries of a government own station or network or within a reasonable radius of other NCE stations. Any changes that would give some protection to LPFM stations from new full power stations should wait for now. We need to know more about second and third adjacent interference on receivers and if the Commission can get a handle on new translator applications, there may be enough channels available for most applicants in a second round of LPFM applications. By then, maybe there will be a better answer on interference issues.

Filing Windows

The Commission is correct to put off the opening of filing windows for new LPFM stations at this time. The translator and second and third adjacent issues should be dealt with first. To put more LPFM stations on the air without proper interference protections will do no good for anyone, either the new LPFM stations or the existing full power stations. We have lost many stations traditional coverage areas because of the increase of stations in the FM band during the 80's and 90's. These new stations meet the Commissions interference requirements, but because many receivers operate at signal levels far beyond the FCC allocation and interference protection contours of one millivolt contour (.5 millivolt for Class B Stations), many persons lost reception of their favorite station. Loyal listeners do complain when they lose their favorite stations and do attempt to listen to stations well beyond the protected contours.

Closing Summary

This notice is a timely opportunity for the Commission to review the progress of LPFM and make adjustments. If the Commission is serious about fostering more localism in broadcasting, LPFM is a place to grow those ideals. There are enough stations on the air at this time that we can get an idea of the direction that the LPFM service is heading, but not so many that we are locked into a direction that we do not want to go in. Changes can still be made to make sure that LPFM serves the vision that it was originally conceived as.

Finally, the mess with FM translators needs to be addressed. Networks of hundreds or thousands of translators rebroadcasting the same programs, runs completely opposite of the long time policy that the Commission has held concerning stations serving the local interest and needs of the community.

The views expressed in these comments are solely mine and do not represent my employer or any other organization that I may belong to. I am a broadcast technician who has been involved in both commercial and public broadcasting for thirty-six years.

Respectfully Submitted
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